

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Cristian Constantino  
Serial No. 10/606,687  
Filed: 06/26/2003  
For: **EMERGENCY SERVICES FOR PACKET NETWORKS**

Examiner: Nguyen, Quynh H.  
Art Unit: 2614

Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The citations for the information be printed on any patent which issues from this application.

The Applicant attaches herewith as Appendix A a copy of a Final Office Action having a mailing date of December 10, 2007 issued by the Patent Office during the prosecution of U.S. Patent Application No. 10/439,531. Specifically, the Final Office Action applies U.S. Patent No. 6,219,346 B1 and U.S. Patent No. 6,256,771 against claims 1-40 of U.S. Patent Application No. 10/439,531. The Applicant requests that this Final Office Action be considered as part of this Information Disclosure Statement. The Applicant also notes that U.S. Patent No. 6,219,346 B1 and U.S. Patent No. 6,256,771 were cited by the Applicant in a previous Information Disclosure Statement.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist. The Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b). The Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102. Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusions regarding the relevance of the cited information.

The Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-1732.

An early and favorable action is hereby requested.

Respectfully submitted,  
WITHROW & TERRANOVA, P.L.L.C.

By:



Anthony J. Josephson  
Registration No. 45,742  
100 Regency Forest Drive, Suite 160  
Cary, NC 27518  
Telephone: (919) 238-2300

Date: December 17, 2007  
Attorney Docket: 7000-237A

# **Appendix A**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/439,531	05/16/2003	Cristian Constantinof	7000-237	7057

27820 7590 12/10/2007  
WITHROW & TERRANOVA, P.L.L.C.  
100 REGENCY FOREST DRIVE  
SUITE 160  
CARY, NC 27518

EXAMINER
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GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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12/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DOCKETED  
*MXH* 12/12/07

<b>Office Action Summary</b>	Application No. 10/439,531	Applicant(s) CONSTANTINOF, CRISTIAN	
	Examiner Gerald Gauthier	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2007.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claim(s) 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxemchuck (US 6,219,346 B1) in view of O'Neil et al. (US 6,256,771).

Regarding claim(s) 1, Maxemchuck discloses a method of providing session control for an element (column 1, lines 13-15) comprising:

- a) receiving session requests for establishing a session between a protected element and at least one source element (column 5, lines 58-67);
- b) receiving event information indicative of an undesirable condition associated with the protected element (column 6, lines 16-32);and

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d) sending the select session requests to the protected element, wherein incoming session requests are selectively forwarded to the protected element upon receipt of the event information (column 12, lines 17-47).

Maxemchuck fails to disclose processing the event information to determine select ones of the session requests.

However, O'Neil teaches c) processing the event information to determine select ones of the session requests to forward to the protected element (column 5, line 56 to column 6, line 11).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Maxemchuck using the teaching of selecting the appropriate service as taught by O'Neil.

This modification of the invention enables the system to process the event information to determine select ones of the session requests so that the user would receive the appropriate service to contact the second user.

Regarding **claim(s) 2 and 20**, Maxemchuck discloses a method, further comprising sending a system protection response configured to stop or reduce a number of the session requests from being generated by the at least one source element (column 6, lines 16-32).

Regarding **claim(s) 3 and 21**, Maxemchuck discloses a method, wherein the system protection response is sent to the at least one source element (column 6, lines

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16-32).

Regarding **claim(s) 4 and 22**, Maxemchuck discloses a method, wherein the system protection response is sent to a session filter associated with the at least one source element (column 12, lines 17-49).

Regarding **claim(s) 5 and 23**, Maxemchuck discloses a method, wherein the event information is sent to a session filter associated with the at least one source element (column 6, lines 16-32).

Regarding **claim(s) 6 and 24**, Maxemchuck discloses a method, wherein the session requests are received via a packet network and the system protection response is sent over a call signaling network for a circuit-switched network (column 6, lines 16-32).

Regarding **claim(s) 7 and 25**, Maxemchuck discloses a method, wherein the session requests are received via a call signaling network for a circuit-switched network and the system protection response is sent over a packet network (column 6, lines 16-32).

Regarding **claim(s) 8 and 26**, Maxemchuck discloses a method, wherein the session request is a call setup message from a circuit-switched network (column 6, lines



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16-32).

Regarding **claim(s) 9 and 27**, Maxemchuck discloses a method, wherein the session request is a session initiation protocol INVITE message from a session initiation protocol network (column 12, lines 17-47).

Regarding **claim(s) 10 and 28**, Maxemchuck discloses a method, wherein the event information is received from the protected element (column 6, lines 16-32).

Regarding **claim(s) 11 and 29**, Maxemchuck discloses a method, wherein the event information is received from an entity other than the protected element (column 6, lines 16-32).

Regarding **claim(s) 12 and 30**, Maxemchuck discloses a method, wherein the event information is indicative of an overload condition for the protected element (column 6, lines 33-49).

Regarding **claim(s) 13 and 31**, Maxemchuck discloses a method, wherein the event information is indicative of a network failure affecting the protected element (column 6, lines 16-32).

Regarding **claim(s) 14 and 32**, Maxemchuck discloses a method, wherein the event information is indicative of a malicious session request attack for the protected element (column 6, lines 16-32).

Regarding **claim(s) 15 and 33**, Maxemchuck discloses a method, wherein the event information further provides information to assist in determining the select session requests (column 6, lines 33-49).

Regarding **claim(s) 16 and 34**, Maxemchuck discloses a method, wherein the event information provides information identifying the at least one source element from which the session requests are filtered (column 6, lines 16-32).

Regarding **claim(s) 17 and 35**, Maxemchuck discloses a method, wherein the event information further provides information in the group consisting of: a) information indicative of a number of the session requests that can be forwarded to the protected element (column 6, lines 33-49);

b) information indicative of a desired reduction in the session requests forwarded to the protected element (column 6, lines 33-49); and

c) information indicative of a number of sessions capable of being supported by the protected element (column 6, lines 33-49).

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Regarding claim(s) 18 and 36, Maxemchuck discloses a method, wherein for certain event information all session requests for the protected element are blocked (column 6, lines 16-32).

Regarding claim(s) 19, Maxemchuck discloses a session filter for providing session control for an element (column 12, lines 17-32) comprising:

- a) at least one interface (column 12, lines 17-32); and
- b) a control system associated with the at least one interface and adapted to:
  - i) receive session requests for establishing a session between a protected element and at least one source element (column 5, lines 58-67);
  - ii) receive event information indicative of an undesirable condition associated with the protected element (column 6, lines 16-32); and
  - iv) send the select session requests to the protected element, wherein incoming session requests are selectively forwarded to the protected element upon receipt of the event information (column 12, lines 17-48).

Maxemchuck fails to disclose processing the event information to determine select ones of the session requests.

However, O'Neil teaches iii) process the event information to determine select ones of the session requests to forward to the protected element (column 5, line 56 to column 6, line 11).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Maxemchuck using the teaching of selecting the appropriate service as taught by O'Neil.

This modification of the invention enables the system to process the event information to determine select ones of the session requests so that the user would receive the appropriate service to contact the second user.

Regarding claim(s) 37, Maxemchuck discloses a method of providing session control for an element (column 1, lines 13-15) comprising:

- a) receiving session requests for establishing a session between a protected element and at least one source element (column 5, lines 58-67);
- b) receiving event information indicative of an undesirable condition associated with the protected element (column 6, lines 16-32); and
- d) sending a system protection response configured to stop or reduce a number of the session requests from being generated by the at least one source element (column 12, lines 17-32).

Maxemchuck fails to disclose processing the event information to determine select ones of the session requests.

However, O'Neil teaches c) processing the event information to determine select ones of the session requests (column 5, line 56 to column 6, line 11).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Maxemchuck using the teaching of selecting the appropriate service as taught by O'Neil.

This modification of the invention enables the system to process the event information to determine select ones of the session requests so that the user would receive the appropriate service to contact the second user.

Regarding **claim(s) 38**, Maxemchuck discloses a method, further comprising sending the select session requests to the protected element wherein incoming session requests are selectively forwarded to the protected element upon receipt of the event information (column 6, lines 16-32).

Regarding **claim(s) 39**, Maxemchuck discloses a session filter for providing session control for an element (column 12, lines 17-32) comprising:

- a) at least one interface (column 12, lines 17-32); and
- b) a control system associated with the at least one interface and adapted to:
  - i) receive session requests for establishing a session between a protected element and at least one source element (column 5, lines 58-67);
  - ii) receive event information indicative of an undesirable condition associated with the protected element (column 6, lines 16-32); and

iv) send a system protection response configured to stop or reduce a number of the session requests from being generated by the at least one source element (column 12, lines 17-32).

Maxemchuck fails to disclose processing the event information to determine select ones of the session requests.

However, O'Neil teaches iii) process the event information to determine select ones of the session requests (column 5, line 56 to column 6, line 11).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Maxemchuck using the teaching of selecting the appropriate service as taught by O'Neil.

This modification of the invention enables the system to process the event information to determine select ones of the session requests so that the user would receive the appropriate service to contact the second user.

Regarding **claim(s) 40**, Maxemchuck discloses a session filter, wherein said control system is further adapted to send the select session requests to the protected element wherein incoming session requests are selectively forwarded to the protected element upon receipt of the event information (column 12, lines 17-48).

***Response to Arguments***

4. Applicant's arguments filed on November 15, 2007 have been fully considered but they are not persuasive. The applicant argues on page 2, last paragraph that in order to establish prima facie obviousness of a claimed invention all the claim limitations must be taught or suggested by the prior art.

The examiner respectfully disagrees.

KSR forecloses the argument that a specific teaching, suggestion or motivation is required to support a finding of obviousness. See the recent board decision *EX parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

The applicant argues on page 3, first paragraph that the cited references, either alone or in combination, disclose or suggest processing event information indicative of an undesirable condition to determine whether or not session requests should be forwarded to a protected element.

The examiner respectfully disagrees.

These limitations as worded by the applicant are not in the claims. The applicant should amend the claims to reflect these limitations as stated on the remark. Therefore the rejection is sustained.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/  
Primary Examiner  
Art Unit 2614

GG  
November 30, 2007

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> ( Not for submission under 37 CFR 1.99)	Application Number		10439531	
	Filing Date		2003-05-16	
	First Named Inventor	Constantinof, Cristian		
	Art Unit	2614		
	Examiner Name	Gauthier, Gerald		
	Attorney Docket Number	7000-237		

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Examiner Initial*	Cite No	Patent Number	Kind Code <sup>1</sup>	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear		
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	1							<input type="checkbox"/>

<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> ( Not for submission under 37 CFR 1.99)	Application Number		10439531
	Filing Date		2003-05-16
	First Named Inventor	Constantinof, Cristian	
	Art Unit	2614	
	Examiner Name	Gauthier, Gerald	
	Attorney Docket Number	7000-237	

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/GG/	1	Office action from U.S. application serial number 10/606,687 mailed September 26, 2007.	<input type="checkbox"/>	
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<small> <sup>1</sup> See Kind Codes of USPTO Patent Documents at <a href="http://www.USPTO.GOV">www.USPTO.GOV</a> or MPEP 901.04. <sup>2</sup> Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>3</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>4</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>5</sup> Applicant is to place a check mark here if English language translation is attached.         </small>				